

1                    H.R. 776

2                    TO ESTABLISH A WILDERNESS SYSTEM

3                    Tuesday, July 31, 1962

4                    House of Representatives,  
5                    Subcommittee on Public  
6                    Lands, of the  
7                    Committee on Interior  
8                    and Insular Affairs,  
9                    Washington, D.C.

10                   The subcommittee met, pursuant to adjournment, at 10:05  
11                   o'clock a.m., in the committee room, New House Office Building,  
12                   the Honorable Gracie Pfof (chairman of the subcommittee)  
13                   presiding.

14                   - - -

15                   Mrs. Pfof. The Subcommittee on Public Lands will now come  
16                   to order for the further consideration of the Wilderness sub-  
17                   stitute which is before the committee, and was in the amendment  
18                   stage on yesterday when the committee adjourned.

19                   Are there further amendments to the substitute?

20                   Mr. Westland. Madam Chairman?

21                   Mrs. Pfof. The gentleman from Washington.

22                   Mr. Westland. I move to strike out the last word.

23                   Mrs. Pfof. The gentleman is recognized for five minutes.

24                   Mr. Westland. I have heard by scuttlebutt that this  
25                   amendment which I proposed on page 3, subsection 4(a) does not  
do what I thought it did, that is, when we struck that. I  
would like to hear the arguments of counsel or anybody, any

1 member of the committee, as to why striking that, as I was  
2 told, gave greater authority to the Secretary of Agriculture or  
3 Interior.

4 Mr. Saylor. Will the gentleman yield?

5 Mr. Westland. I yield.

6 Mr. Saylor. As the chairman of the full committee said  
7 yesterday, with this provision in the bill as originally presented  
8 the Secretary of Interior and the Secretary of Agriculture had  
9 certain definite responsibilities, they had to notify the Com-  
10 mittees of Interior and Insular Affairs in the House and in the  
11 Senate. Having removed this provision, you now go back to the  
12 situation that presently exists in the law and the Secretary of  
13 Agriculture and the Secretary of Interior can ignore these  
14 committees.

15 One of the basic purposes of having introduced the original  
16 Wilderness legislation was to put Congressional action as a  
17 primary requirement to get away from the absolute authority that  
18 now exists in the hands of the Secretary of Agriculture and the  
19 Secretary of the Interior. That is why, when the gentleman  
20 proposed his amendment the other day, I voted against it, because  
21 I am satisfied that what he is doing by having taken out section  
22 4(a) which appears in Committee Print No. 21 on lines one and  
23 two of page five, he keeps the law as it is today.

24 Mr. Aspinall. Will the gentleman yield to me?

25 Mr. Westland. Yes.

1 Mr. Aspinall. It will do one of two things: It will either  
2 do as the gentleman from Pennsylvania has said and the Secretary  
3 will go ahead and make his determination without coming to Con-  
4 gress, or it will make necessary an Act of Congress, one or the  
5 other.

6 Mr. Westland. Maybe I have not read this right, but as I  
7 believe I said at that time when I offered the striking of that  
8 as amended, that you had to go back to section 102, that nowhere  
9 it says no Act of Congress shall be required if. Since 4 is a  
10 subsection of that and in order to, I thought, to make good  
11 English, we had to go back to that and then read that subsection  
12 (a), although I realize it does say they must give 180 days  
13 notice. But 180 days notice, while that is all right, it still  
14 does not require affirmative action by Congress and, in fact, it  
15 perhaps specifically said that no action of Congress was re-  
16 quired, and "the pending legislation" was such a large phrase.  
17 There were some 10,000 bills introduced in Congress. I am sure  
18 that any Secretary could find something where a withdrawal would be  
19 in aid of pending legislation.

20 I think the committee is in agreement, including the gen-  
21 tleman from Pennsylvania, that we want affirmative action by  
22 the Congress.

23 Does counsel have anything to say on this?

24 Mr. Pearl. The only point I could add to the discussion,  
25 Mr. Westland, is that this is something that the Departments do

1 today. Withdrawals are made specifically for the purpose, as  
2 we call it, in aid of legislation, and the only difference is  
3 that Congress is not even notified about it. When a bill is  
4 pending for which they expect there might be a need to use some  
5 public lands, they withdraw those lands from appropriation in order  
6 to have them available without permitting new claims to be filed  
7 that might have to be eliminated and thereby run up the Govern-  
8 ment costs. And this is being done continuously. I think  
9 sufficient pattern has been established so that they would not be  
10 able to go beyond the realm of really requiring the public land  
11 for some specific use and could not reach out. If they did  
12 reach out to something that was unreasonable, by being required  
13 to furnish the notice to Congress, then during that 180-day  
14 waiting period, certainly there would be ample time for something  
15 to be done about it.

16 Mr. Westland. Let me ask you this: First of all, the  
17 Engle Act applies to the Defense Department.

18 Mr. Pearl. Yes, sir.

19 Mr. Westland. So the Defense Department must give notice  
20 of any proposed withdrawal.

21 Mr. Pearl. More than that; in order to get a withdrawal  
22 of over five thousand acres, they require an Act of Congress.

23 Mr. Westland. Yes.

24 Mr. Pearl. So they have a bill introduced and proceed to  
25 tie the land up in aid of legislation.

1 Mr. Westland. Yes. What we are talking about primarily  
2 it seems to me here is Wilderness legislation; we are not talk-  
3 ing about the building of some multi-purpose dam, we are talking  
4 about Wilderness areas.

5 Mr. Pearl. Except that Title I covers everything.

6 Mr. Westland. What?

7 Mr. Pearl. Title I covers everything.

8 Mr. Saylor. Will the gentleman yield?

9 Mr. Westland. Yes.

10 Mr. Saylor. This is the basic distinction between the  
11 bill which I introduced and the substitute that has been offered  
12 by the gentleman from Colorado. Section 1 is general legislation  
13 and covers all fields. Section 2 covers Wilderness.

14 Mr. Pearl Title I specifically makes Wilderness as a use  
15 equal to other types of classification, designation or restriction  
16 on use, and makes the same rules applicable uniformly for any type  
17 of restriction, including Wilderness.

18 Mr. Westland. Madam Chairman, could we leave this as it is  
19 now and let it go to the full committee?

20 Mr. Aspinall. Will the gentleman yield?

21 Mr. Westland. Yes.

22 Mr. Aspinall. That was our determination yesterday.

23 Mr. Westland. Fine.

24 Mrs. Pfof. Are there further amendments to the substitute?

25 Mr. Westland. Madam Chairman?

1 Mrs. Pfoest. The gentleman from Washington.

2 Mr. Westland. On page 8 --

3 Mr. Aspinall. Which bill?

4 Mr. Westland. Title 2 of Committee Print No. 21, Wilderness  
5 Areas, page 13, line 2, delete the word "shall" and insert the  
6 word "may."

7 Mrs. Pfoest. The gentleman is recognized for five minutes  
8 in support of his amendment if he desires the time.

9 Mr. Westland. This, of course, is permissive rather than  
10 a direction. It appeared to me that under 202 (a), which sort of  
11 defines what is a Wilderness, that with the word "shall" in  
12 there it would then become incumbent upon the Secretary of  
13 Agriculture or the Secretary of Interior to immediately designate  
14 any area that would come under the definition of 202(a). In  
15 other words, "generally appears to have been affected primarily  
16 by the forces of nature, with the imprint of man's works sub-  
17 stantially unnoticeable; (2) has outstanding opportunities for  
18 solitude or a primitive and unconfined type of recreation; (3)  
19 has at least five thousand acres of land and is, therefore, of  
20 sufficient size as to make practicable its preservation and use  
21 in an unimpaired condition", and other features.

22 Then it says that it "shall be designated by Congress as a  
23 Wilderness Area."

24 I say it may be designated, and again I call to the atten-  
25 tion of the committee the Olympic National Park, for example, an

1 area with which I am familiar, 900,000 acres and probably  
2 800,000 of it would qualify under 202(a). And it would,  
3 therefore, then, under the use of the words "shall be designated",  
4 it would mean all of that would be a Wilderness.

5 Mr. Saylor. If the gentleman will yield, that is not right.

6 Mr. Westland. Yes, just a second. Under the term of  
7 Wilderness and roads and so forth. All I ask is that the word  
8 "shall", which is a directive, be changed to "may", which is  
9 permissive.

10 Now I yield.

11 Mr. Aspinall. Will the gentleman yield to me?

12 Mr. Westland. Yes.

13 Mr. Aspinall. This section has nothing to do, in the first  
14 place, with national parks. In the second place, this is the  
15 mandatory part about the bill as far as the establishment of  
16 wilderness areas, as I see it. That is all I have to say.

17 Mr. Saylor. Will the gentleman yield?

18 Mr. Westland. I yield to the gentleman from Pennsylvania.

19 Mr. Saylor. The very purpose of the opponents of Wilderness  
20 legislation, as I have been able to gather, is that they insist  
21 that Congress take positive action, and what the gentleman is doing  
22 is completely obliterating that requirement. I cannot under-  
23 stand the gentleman's position of being opposed to the bill and  
24 then coming along and offering amendments which weaken the  
25 position of Congress. I will support his amendment, but I think

1 he is doing his own area a disservice.

2 Mr. Westland. Well, the gentleman is entitled to his  
3 opinion.

4 Mr. Dominick. Will the gentleman yield?

5 Mr. Westland. Yes, I yield.

6 Mr. Dominick. If I may say so, I think we are wound up  
7 again in the question of which comes first here. Under the  
8 Wilderness title we are saying under section 202 what is a  
9 Wilderness, and we say it is an area of undeveloped Federal  
10 land. Presumably it could include almost any kind of Federal  
11 land. And then we say, under (b), which is the point you were  
12 talking about, that any area of Federal land which comes within  
13 that definition shall be designated. Later on we say that  
14 certain areas shall not be designated unless you have specific  
15 approval by the Congress.

16 I wonder whether what we should put in instead of changing  
17 "shall" to "may", whether we should not put in "may be designated  
18 subject to the provisions of this Act", or that we put in  
19 instead "lands meeting the requirement of Wilderness as defined  
20 herein and subject to later provisions of this title shall be  
21 designated."

22 Mrs. Pfof. The time of the gentleman from Washington has  
23 expired.

24 Mr. Dominick. Madam Chairman, I move to strike the requi-  
25 site number of words and yield to the gentleman from Washington.

1 Mrs. Pfof. The gentleman is recognized for five minutes.

2 Mr. Westland. This may be semantics but I do not think so.

3 "Shall" is a very definite term and "may" is also a very definite  
4 term. And if this does not say that any area that meets the  
5 descriptions of 202(a) shall be designated by Congress as a  
6 Wilderness area, then I miss my guess. And I am not about to  
7 vote for something that must designated all areas within the  
8 Olympic National Park, for example, that do not have roads,  
9 that have an opportunity for solitude -- and I will guarantee  
10 it has got plenty of opportunity for solitude -- and primarily  
11 affected by the forces of nature -- I am not going to vote for  
12 something that says the Congress "shall" designated that as a  
13 Wilderness area.

14 I may do it, but I am not going to vote for something that  
15 says I have to do it.

16 Mr. Dominick. Madam, Chairman, I wonder if we could get  
17 the opinion of counsel as to whether or not there could not be  
18 some changes in wording because, as I understand the gentleman  
19 from Washington, he has no objection, within the circumscribed  
20 grou of lands that we say may become wilderness immediately,  
21 he has no objection to having this designated under the term  
22 "shall", and the question is whether or not the other lands will  
23 be brought in by specific Act of Congress. The only thing I am  
24 concerned about is whether the gentleman's amendment will do what  
25 he wants it to do.

Mr. Westland. Will the gentleman yield?

1 Mr. Dominick. Yes.

2 Mr. Westland. I hope it will do what I want it to do.

3 I say it is permissive, that maybe Congress would designated an  
4 area which meets this definition as a Wilderness, but it does not  
5 say it shall be done, that is the law.

6 Mr. Dominick. I would agree with the gentleman from Washington,  
7 but I also wonder whether we should not have an additional  
8 amendment in there making it subject to later provisions.

9 Mr. Westland. If the gentleman has something further to  
10 suggest, I would be perfectly willing to listen to it.

11 Mr. Dominick. That is why I wanted to get the thoughts of  
12 counsel.

13 Mr. Pearl. Mr. Dominick, I do not see the need of further  
14 amendment to clarify the fact that these further actions shall be  
15 taken by Congress if the Congress at a future time agrees that  
16 these areas should be designated as Wilderness areas as defined  
17 in this Act. Section 202(a) declares the policy, is a declara-  
18 tion of policy, as I see it, and Mr. Westland's point is, I think,  
19 that of course "shall" in this instance is not the same as when  
20 you are telling a Department that the Secretary shall do  
21 something, because one Congress cannot bind the next.

22 So this is a declaration of this Congress that areas that  
23 meet this criteria should be brought into and designated as  
24 Wilderness, but if a succeeding Congress --

25 Mr. Dominick. Let me interrupt you and ask you a question.

1           You have the words "Federal lands" in 202(a), and down in  
2 202(b) you say "wilderness as defined herein." Does that refer  
3 only to the definition under 202(a) or does it also take in the  
4 remainder of the bill?

5           Mr. Pearl. The definition of wilderness is in 202(a) and  
6 202(b) refers to the definition as it is now in 202(a).

7           Mr. Dominick. Then you are saying that any Federal land  
8 meeting the requirements as stated in 202(a) shall be designated  
9 as wilderness, and this is not what we wanted to do.

10          Mr. Aspinall. Will the gentleman yield?

11          Mr. Dominick. Yes.

12          Mr. Aspinall. Shall be designated as wilderness proving  
13 the Congress finds that it contains these attributes that are set  
14 forth as describing a wilderness area. This does not say they  
15 shall be determined as wilderness areas unless Congress comes  
16 through later on with individual determinations and approval of  
17 legislation. This is tied in, as Mr. Pearl has said, this is  
18 simply a statement of policy for the Secretaries and Congress to  
19 follow in determining what wilderness areas shall be other than  
20 those that we incorporate as wilderness areas in this legisla-  
21 tion. We incorporate all wild areas, all wilderness areas,  
22 and all canoe areas, as wilderness areas later on in this legis-  
23 lation.

24          Mr. Dominick. I understand that. The words I am concerned  
25 about is that they say that any Federal land which meets that

1 meets that definition -- and Federal land takes in a lot more in  
2 scope than the wilderness, wild, and canoe -- that any Federal  
3 land shall be designated, and this is not what I understand the  
4 gentleman from Colorado to have meant in drawing his substitute.

5 Mr. Aspinall. If the gentleman's intention is the one that  
6 is to stand, of course it is not what the gentleman from the  
7 Fourth District of Colorado intended. But as a statement of  
8 policy, these qualifications must be present in legislation  
9 before they can even be considered by Congress. I doubt if it  
10 makes any difference whether you use "shall" or "may" as far as  
11 I am concerned. But I want it understood that this is not a  
12 covering piece of legislation as to what constitutes wilderness  
13 areas established by statute in the future.

14 Mr. Rivers. Will the gentleman yield?

15 Mr. Dominick. Yes.

16 Mr. Rivers. The chairman of the full committee was speaking  
17 of policy. This says "lands meeting the requirements of wilder-  
18 ness as herein defined shall be designated by Congress!"

19 I thought our policy within the multiple-use concept was  
20 that the Congress would select portions perhaps of the lands which  
21 meet the wilderness requirements, but that in some instances  
22 lands which meet the wilderness requirements would not be  
23 designated as wilderness.

24 Therefore, I am going to support the amendment for the  
25 word "may."

1 Mrs. Pfof. The time of the gentleman from Colorado has  
2 expired.

3 Mr. Johnson. Madam Chairman?

4 Mrs. Pfof. The gentleman from California.

5 Mr. Johnson. I move to strike the requisite number of words.

6 Mrs. Pfof. The gentleman is recognized for five minutes.

7 Mr. Johnson. The chairman of the full committee, Mr.  
8 Aspinall, I would like to ask you a question here. You are  
9 quite familiar with Yosemite National Park and Death Valley  
10 National Monument. In both of those areas there are areas  
11 that qualify under this provision. What effect is this going to  
12 have on the Secretary of the Interior and the National Park  
13 Service if this passes? Do you think they will go ahead and  
14 open up any more of these areas, or will they just say that  
15 this legislation is the guideline set by Congress and we are  
16 going to study this for the next ten years -- we have ten years  
17 to study this in -- and we will get no further development in  
18 Yosemite National Park --

19 Mr. Aspinall. Before the gentleman goes any further, if  
20 the Secretary wishes to establish those wilderness areas at the  
21 present time, he may do so.

22 Mr. Johnson. That is true. So far he has not made that  
23 designation, but they are considering it. If the word "may"  
24 is in here, I think it would lend a little support to our  
25 position there possibly should be a further opening up in both  
of these areas. Yosemite National Park this year has already

1 had an increase in visitation of about 22 per cent over last year,  
2 and there is a large area in Yosemite National Park which could  
3 be set aside for wilderness for ever after. I think our people  
4 out there, the majority, think that portions of the park that are  
5 now set aside as wilderness should not be tied up as a wilderness  
6 area under the provisions of this bill. Naturally, that would  
7 have to come back to Congress, I agree. But I think the word  
8 "may" would probably be a little softer on the locking up than  
9 the word "shall".

10 The same thing exists in Death Valley National Monument.  
11 We have had under consideration for a long time a road in there  
12 and then the further withdrawal from mineral entry of a large  
13 portion of the Monument. As soon as this legislation goes  
14 through, I bet you in a day or two they will withdraw that  
15 whole business and have no road or anything else. So I think  
16 the word "may" would give us a little better protection; don't  
17 you, Mr. Chairman?

18 Mr. Aspinall. I have no objection; as I have already  
19 stated, as far as I am concerned, I am going along with the  
20 thinking of the gentleman from Pennsylvania, it is a policy  
21 statement which is supposed to be a guideline for the Congresses  
22 to come. It seems to me the word "shall" places the burden on  
23 Congress. If you think it is too much of a burden, I am not  
24 going to fight.

25 Mr. Saylor. Question.

1 Mr. Dominick. Madam Chairman?

2 Mr. Saylor. He has already been recognized, Madam Chairman.

3 Mr. Dominick. I have an amendment to the amendment.

4 Mrs. Pfof. The gentleman is recognized to state his  
5 amendment.

6 Mr. Dominick. Instead of striking "shall" and inserting  
7 "may", insert a comma after the word "herein", strike "shall be",  
8 insert the words "and as", put in a comma after the wilderness areas  
9 in quotes on the next line, strike the word "and", and put in  
10 the words "shall be."

11 Mrs. Pfof. The gentleman is recognized for five minutes  
12 in support of his amendment.

13 Mr. Dominick. What I am trying to do, Madam Chairman -- and  
14 I still may not have it right although I think it is helpful --  
15 is to eliminate the concern of Mr. Westland and not leave it  
16 open to/interpretation that Mr. Saylor expressed. It would read,  
17 if this amendment should be adopted, "In order to assure an ensure  
18 an enduring resource of wilderness, lands meeting the requirements  
19 of "wilderness" as defined herein and as designated by Congress  
20 as wilderness areas shall be administered for the use and enjoy-  
21 ment of the American people."

22 Mrs. Pfof. Is there further discussion of the amendment?

23 If not, all in favor of the amendment signify by saying  
24 "aye."

25 All opposed, say "no." This is the amendment to the

1 amendment to the amendment.

2 The amendment to the amendment is carried.

3 This leaves the question on the amendment.

4 All of those in favor of the amendment of the gentleman  
5 from Washington as amended --

6 Mrs. Hansen. Madam Chairman, may we have the amendment as  
7 amended read?

8 Mrs. Pfof. The amendment as amended. Mr. Pearl, will you  
9 please read the amendment as amended?

10 Mr. Pearl. On page 13 of the Committee Print, line 2,  
11 insert a comma after "herein", strike "shall be" and insert  
12 "and as." In line 3, place a comma after areas, strike "and"  
13 and insert" shall be." So that beginning at the borrom of page  
14 12, line 25, it will read, "In order to assure an enduring  
15 resource of wilderness, lands meeting the requirements of  
16 "wilderness" as defined herein and as designated by Congress as  
17 "wilderness areas" shall be administered" et cetera.

18 Mrs. Pfof. Is there further discussion of the amendment?

19 All in favor of the amendment, as amended, signify by  
20 saying "Aye."

21 All opposed, say "No."

22 The amendment is carried.

23 Are there further amendments?

24 Mr. Westland. Madam Chairman?

25 Mrs. Pfof. The gentleman from Washington.

1 Mr. Westland. On page 14, line 12, strike the word  
2 "shall" and insert the word "may." Much the same argument  
3 applies here as applied in the previous debate on the previous  
4 amendment.

5 I appreciate the fact that there are the words "specific  
6 approval" on line 13 and I am delighted to see those words in  
7 there. I again want to make this more permissive than directive.

8 Mrs. Pfof. Is there further discussion of the amendment.

9 All in favor of the amendment signify by saying "Aye."

10 All opposed, say "No."

11 The amendment is carried.

12 Are there further amendments?

13 (Discussion off the record.)

14 Mr. Westland. On page 15, line 9 of the Committee Print, I  
15 think in continuity of the previously adopted amendments, the  
16 word "may" should be substituted for the word "shall."

17 Mrs. Pfof. Is there discussion? Do you offer the amend-  
18 ment?

19 Mr. Westland. Yes.

20 Mrs. Pfof. Is there discussion of the gentleman's amend-  
21 ment? If not, all in favor signify by saying "Aye."

22 All opposed, say "No."

23 The amendment is carried.

24 Are there further amendments?

25 Mr. Westland. Madam Chairman, I move to strike the last

1 word.

2 Mrs. Pfof. The gentleman is recognized for five minutes.

3 Mr. Westland. For the purpose of discussing language in  
4 section 204 (c), the last sentence: "Each report shall contain,  
5 in addition to the recommendation relative to the portion of a  
6 particular unit to be designated as wilderness, a proposed  
7 plan for the development, operation, and maintenance of that  
8 entire unit for its general use and the possibility for recrea-  
9 tional utilization including plans, if any, for roads, motor  
10 trails, buildings, accommodations for visitors, and administra-  
11 tive facilities."

12 Of course, that is something new to me in a wilderness area.  
13 I would favor that sort of thing, but I did not believe that  
14 the proponents of this legislation would favor the plan for roads,  
15 motor trails, building accommodations for visitors.

16 And I would call to the attention of the committee, under  
17 the head of "prohibition of certain uses", on page 20 of the  
18 Committee Print, where it says, ". . . . nor shall there be any  
19 use of motor vehicles, motorized equipment, or motorboats, or  
20 landing of aircraft nor any other mechanical transport or delivery  
21 of persons or supplies, nor any temporary road, nor any structure  
22 or installation, in excess of the minimum required for the admin-  
23 istration of the area for the purposes of this Act, including  
24 such measures as may be required in emergencies involving the  
25 health and safety of persons within such areas."

1           This certainly does not seem to me to be in accord with  
2 the language I previously just cited. In other words, in one  
3 place it says you cannot have any of this, and in the other place  
4 it says you must plan for providing these buildings for visitors,  
5 roads and so forth.

6           I would imagine under that section (b) of "Prohibition of  
7 Certain Uses" that would be the ruling phrase. I would like to  
8 hear the opinion of the gentleman who introduced this substitute  
9 and his thinking on it.

10          Mr. Aspinall. In the first place, it is a report, and in  
11 the second place, if I remember the hearings correctly, we did  
12 have testimony as to the need for certain facilities within  
13 certain areas in order not only to protect the area, but in order  
14 to protect the visitors.

15          It seems to me there is no conflict between this and the  
16 language that the gentleman made reference to later on. The  
17 Congress and the committees having jurisdiction certainly are  
18 entitled to all of the information that they can get, to any  
19 guidelines which the Executive Department wishes to recommend.

20          Mr. Westland. I ask the gentleman then, why would a  
21 Department make a report which might include roads, buildings or  
22 accommodations for visitors, where in a subsequent paragraph that  
23 sort of thing is prohibited?

24          Mr. Aspinall. Some of these wilderness areas are going to  
25 be carved out of parts of lands that are presently used for

1 other purposes. It will be necessary in plans to provide for  
2 any roads that might be necessary to get to the wilderness area,  
3 it will be necessary, perhaps, to plan for any facilities that  
4 may be necessary to enjoy the wilderness area as such. Now this  
5 is an overall report, as the gentleman from Washington has  
6 undoubtedly determined. It seems to me there is no conflict. I  
7 may be wrong.

8 Mr. Westland. The gentleman may be right.

9 Mr. Saylor. Will the gentleman yield?

10 Mr. Westland. Surely.

11 Mr. Saylor. I see absolutely no conflict. Portions of an  
12 area may be designated as wilderness by Congress. That portion  
13 which is not designated is a part of the unit which shall be  
14 included in the report. And in that part of the unit which is  
15 not designated as wilderness, the Secretary is to report to this  
16 committee and the corresponding committee of the Senate what he  
17 intends to develop.

18 There is absolutely no inconsistency between the two pro-  
19 visions. This is one of the things that to me has made the  
20 substitute acceptable, because it shows that the gentleman from  
21 Colorado is thinking of what plans should be submitted to the  
22 Congress in the years to come by the respective Secretaries.

23 Mr. Westland. I am in favor of not only submitting plans  
24 for those purposes, but in developing those plans.

25 Madam Chairman, I have an amendment.

1 Mrs. Pfof. The gentleman will state it.

2 Mr. Westland. On page 21, line 2, of the Committee Print,  
3 after the word "for" insert "the enjoyment of visitors or".  
4 So it would read, ". . . nor any temporary road, nor any structure  
5 or installation, in excess of the minimum required for the  
6 enjoyment of visitors or the administration of the area", and so  
7 forth.

8 Mrs. Pfof. The gentleman is recognized for five minutes.

9 Mr. Westland. This I think would bring it in linewith the  
10 phraseology that I have previously discussed, subsection (c),  
11 where the agency in charge, either Agriculture or Interior, would  
12 submit plans for any roads or buildings for the enjoyment of  
13 visitors. That is what it says -- motor trails, buildings.  
14 There would not then be a prohibition against some of this.

15 I think I am in agreement with the proponents of this legis-  
16 lation that in a wilderness area there probably should not be  
17 motorized transportation, but I also think that there ought to be  
18 some way where visitors can have some sort of accommodations.  
19 And this would only permit the minimum required for the enjoyment  
20 of visitors to those areas.

21 Mrs. Pfof. Is there further discussion?

22 Mrs. Hansen. Will the gentleman yield?

23 Mr. Westland. Yes, I yield.

24 Mrs. Hansen. Here on page 20 it says "no permanent road"  
25 and "nor any temporary road." I am asking the question, does

1 this bar the customary fire trails and roads which are established  
2 in any forest area? And I say this because there are thousands  
3 of acres which belong to States or to private companies bordering  
4 upon wilderness areas, and a fire can conceivably be started by  
5 lightning and not by people at all within a forest area.

6 The need to move in fire equipment and men is immediate, it  
7 is not something that can wait 24 hours or until a road can be  
8 bulldozed through or anything like that. The fire can escape in a  
9 very few minutes in dry western timber. And I am wondering if  
10 this, I would just like to have the chairman clarify this so  
11 that all of us are sure there is fire protection within the  
12 wilderness area, not only for the preservation of the wilderness  
13 timber and the beauty, but for adjacent territory.

14 Too, many of us have seen miles and miles of timberland  
15 which have been destroyed forever and not caused by man-made  
16 fires in many instances.

17 Mr. Aspinall. If the gentlewoman will yield to me?

18 Mrs. Pfost. The gentleman from Washington has the time.

19 Mr. Westland. I yield.

20 Mr. Aspinall. I think we had a discussion on this yester-  
21 day, and I think this is an administrative responsibility. I  
22 told you my position, not that these resources are not worth  
23 saving, but we do have some conservationists who like to see  
24 apparently a ravaged area if it is done by nature. I suppose  
25 that is based upon the same thinking that they do not object to a

1 ravaged area if the fire is started by some wilderness visitor  
2 and gets out of control. I suppose that is an act of nature  
3 also.

4 As far as placing roads within wilderness areas as such,  
5 I do not believe there would be a prohibition against Congress  
6 making that a necessary part of the authorization in the future.  
7 As far as those areas this covers, I could not say at this time  
8 whether there are any roads within certain of those areas or not,  
9 but I am of the opinion that there are. And more than likely,  
10 if the Secretary determined it necessary, there would be addi-  
11 tional roads for the purpose of protection.

12 That is all I can say.

13 Mrs. Pfof. The time of the gentleman from Washington has  
14 expired.

15 Mr. Rivers. Madam Chairman, I move to strike the last word.

16 Mrs. Pfof. The gentleman from Alaska is recognized for  
17 five minutes.

18 Mr. Rivers. I just want to pursue what we were discussing to  
19 the effect that "there shall be no . . . structure or installation  
20 , in excess of the minimum required for the administration of the  
21 area for the purposes of this Act, including such measures as may  
22 be required in emergencies involving the health and safety of  
23 persons within such areas."

24 I think this exception language, or this minimum that is  
25 allowed for what the lady from Washington is referring to, I think

1 it would allow for what the lady has in mind, would permit  
2 minimal improvements to carry out the purpose that she has in  
3 mind. As the chairman of the full committee said, the protection  
4 of the forests against fire is part of the administrative process  
5 and this language, to my mind, takes care of it.

6 I would close by saying I am going to support the amendment  
7 of the gentleman from Washington.

8 Mrs. Hansen. Will the gentleman yield?

9 Mr. Rivers. Yes.

10 Mrs. Hansen. I think the chairman has the point of adminis-  
11 it  
12 trative protection, but I do not want/to be limited to the health  
13 and safety of persons within such areas. I do not think it is  
14 right to create any hazards that will be damaging to those  
15 other areas, and there are may small communities, for instance,  
16 that border and can border upon a wilderness area, and a forest  
17 fire starts adjacent to an area and the forest fire moves in  
18 the direction of the wind, not in the direction of any pattern,  
19 and the thing I call attention to is involving the health and  
20 safety of persons within said areas. It is not within the area  
21 of the wilderness alone that there is a matter of safety, there  
22 is the matter of the safety of property adjacent, the safety  
23 of people adjacent.

24 I believe that I remember not too long ago where a forest  
25 fire started in the State of Washington and threatened a small  
town in Mr. Westland's district, and it was just adjacent to

1 the park. It could have been a disastrous fire within the park  
2 and it certainly could have been a disastrous fire, because the  
3 winds turned in the evening, to the communities south of the  
4 park. These are the questions I raise. It is a matter of the  
5 practical preservation of the very qualities that I would think  
6 the Wilderness bill wants to preserve.

7 Mr. Westland. Will the gentleman yield?

8 Mr. Rivers. Yes.

9 Mr. Westland. I think in the next section under special  
10 provisions in (c) the last sentence, "In addition, such measures  
11 may be taken as may be necessary in the control of fire, insects,  
12 and diseases, subject to such conditions as the appropriate  
13 Secretary may deem desirable."

14 Mrs. Hansen. Then you feel there will be roads?

15 Mr. Westland. I think it gives him authority to do it at  
16 least. Whether he does it or not, he has the authority.

17 Mr. Rivers. I think the word "administration" includes the  
18 health emergencies and safety, but is not exclusive of other  
19 proper administrative steps.

20 Mr. Johnson. Will the gentleman yield?

21 Mr. Rivers. Yes.

22 Mr. Johnson. Thank you, Mr. Rivers.

23 At the time of the hearings we discussed this very thoroughly  
24 with the Secretary of Agriculture when he was on the stand,  
25 because we are losing more of this timber to beetles than we

1 ever are to fire. Right now in California we have a bark  
2 beetle infestation that covers three million acres and, believe  
3 me, it is a sick looking situation and it has been right up ad-  
4 jacent to these wilderness areas, and the State has joined the  
5 Forest Service and are in there now really going after that,  
6 trying to eradicate the bark beetle infestation that is taking  
7 place.

8 I think we probably have more damage from this infestation  
9 of the bark beetle than we have had from fires in the last three  
10 years. So when the Secretary was here we asked him about that,  
11 and as a matter of record he said they would move in and take  
12 over the situation and go into even the wilderness areas to try  
13 and stop this apread of disease before it gets into other stands  
14 of timber, other stands of Forest Service timber that are not in  
15 the park. I asked the Secretary specifically on this situation,  
16 where they are going to see these wilderness areas in parks, if  
17 they were just going to let the fire go and let disease take over  
18 in there and probably ruin the whole situation. Those pictures  
19 coming in from California today with the bark beetle are  
20 worse than any fire. They just went through the whole business  
21 there and laid the timber to waste. I think the Secretary has  
22 a real responsibility, both the Secretary of Agriculture and the  
23 Secretary of the Interior, in tryint to control these things if  
24 they do break out. They would have to move in and we would have  
25 to forget the wilderness.

1 Mrs. Pfost. The time of the gentleman from Alaska has  
2 expired.

3 Mr. Dominick. Madam Chairman?

4 Mrs. Pfost. The gentleman from Colorado.

5 Mr. Dominick. I would like to speak in opposition to the  
6 amendment.

7 Mrs. Pfost. The gentleman is recognized for five minutes.

8 Mr. Dominick. I have maintained throughout that if we are  
9 going to have wilderness areas that I am personally in favor of  
10 the wilderness principle. The question was how you were going  
11 to have any which are actually wilderness. If the amendment of  
12 the gentleman from Washington is adopted, we do not any longer  
13 have any wilderness areas, it depends upon the administration by  
14 the Secretary of Agriculture or the Secretary of Interior, it  
15 depends upon them as to which of these things they feel are  
16 necessary for the enjoyment of visitors, and you could have motor  
17 vehicles and motorboards and airplanes and roads and cocacola  
18 stands and almost anything else necessary for the enjoyment of  
19 the visitors in an area designated as wilderness, which imme-  
20 diately puts it back into the category of a national park as  
21 opposed to wilderness.

22 It strikes me if we are going to have wilderness at all, it  
23 ought to be wilderness and not a new aspect of the southeast edge  
24 of Yellowstone, which is pretty crowded up with buildings and  
25 roads now, as we all know.

1 Mr. Westland. Will the gentleman yield?

2 Mr. Dominick. Yes, I am delighted to yield.

3 Mr. Westland. I would like to ask a question. First of all,  
4 does the gentleman think that they should not provide anything for  
5 the enjoyment of the visitors?

6 Mr. Dominick. Yes, I do.

7 Mr. Westland. They should not provide anything?

8 Mr. Dominick. Surely.

9 Mr. Westland. They do provide the forests.

10 Secondly, does the gentleman believe that it is all right  
11 to provide a minimum of these things for administration?

12 Mr. Dominick. Yes, I do.

13 Mr. Westland. But not for the enjoyment by the people.

14 Mr. Dominick. Yes, I do.

15 Mr. Westland. It is a very definite point of view. I  
16 think it is more important that people enjoy it than provide  
17 things for administration.

18 Mr. Dominick. The trouble with that is the word "enjoyment"  
19 is subject to any kind of an interpretation, depending upon the  
20 person you have administering the Act or the area.

21 Mr. Westland. I would say to the gentleman that phraseology  
22 is already in there in a preceding section which we previously  
23 discussed --

24 Mr. Saylor. Will the gentleman yield?

25 Mr. Dominick. Yes.

1 Mr. Saylor. It is in the preceding section, but it has to do  
2 not with the areas designated as wilderness, but that part of the  
3 unit from which the wilderness was carved. I would like to join  
4 in opposition to this amendment.

5 Mrs. Pfof. Is there further discussion?

6 Mr. Aspinall. Madam Chairman, I would offer an amendment,  
7 purely to get the reaction of the members of the committee, to  
8 amend the Westland amendment by striking the word "enjoyment"  
9 and inserting in lieu thereof "use."

10 Mrs. Pfof. The gentleman is recognized for five minutes  
11 in support of his amendment.

12 Mr. Aspinall. I think the amendment is self-explanatory.

13 Mr. Westland. I would say to the gentleman, I would accept  
14 that amendment.

15 Mrs. Pfof. Is there further discussion?

16 Mr. Dominick. Madam Chairman, if the gentleman will yield,  
17 I cannot see we have any difference. If you are going to provide  
18 all of the equipment for the use of visitors within the area, you  
19 do not have a wilderness area.

20 Mr. Aspinall. Let me ask my colleague this: What if  
21 someone is using the wilderness area and is injured and it is  
22 necessary to blaze a trail through in order to bring the person  
23 out, a trail perhaps necessary to save a life, where you would  
24 have to use a totegoat. That would be a minimum requirement to  
25 save a life. I think that is necessary. If it is necessary to

1 cut down a few trees in order to provide for a landing strip  
2 for a helicopter, it seems to me that would be a wise use.

3 Mr. Dominick. I would agree.

4 Mr. Westland. Would the gentleman yield?

5 Mr. Aspinall. Yes.

6 Mr. Westland. Under this mining business, you have got in  
7 this bill, you can cut all of the timber you want to do your  
8 mining, you can build roads and all of that to get it out. Let  
9 us let some of the people enjoy this as well as the mining.  
10 That is what you have got in the bill.

11 Mrs. Pfof. Is there further discussion?

12 All in favor of the amendment to the amendment, signify by  
13 saying "Aye."

14 All opposed, say "No."

15 In the opinion of the Chair, the "Ayes" have it, and the  
16 amendment to the amendment is carried.

17 Now the question arises on the amendment as amended.

18 All in favor of the amendment as amended signify by saying  
19 "Aye".

20 All opposed, say "No."

21 In the opinion of the Chair, the "Ayes" have it, the "Ayes"  
22 do have it, and the amendment as amended is carried.

23 Are there further amendments?

24 Mr. Westland. Madam Chairman?

25 Mrs. Pfof. The gentleman from Washington.

1 Mr. Westland. I move to strike the last word.

2 Mrs. Pfost. The gentleman is recognized for five minutes.

3 Mr. Westland. For the purpose of asking the chairman of  
4 the full committee, under "Special Provision", subsection (d),  
5 the Secretary of Agriculture is given certain specific authority  
6 in the establishment of various facilities and the phrase "water  
7 conservation works" is used.

8 Is it the gentleman's idea this phrase "water conservation  
9 works" could include the construction of power dams, multiple-purpose  
10 projects?

11 Mr. Aspinall. If the gentleman will yield to me, it is  
12 not my understanding that is involved here because I just do not  
13 know of any of these areas, located as they are, where we would  
14 have anything more than a small reservoir or perhaps a ditch. I  
15 am not acquainted with all of the primitive areas and I think the  
16 report of the Secretary will have to show what is involved  
17 before Congress can pass upon whether or not we should approve that  
18 as part of a wilderness area. A multiple-purpose project has to  
19 be low down the river in order to have the water available and to  
20 make it a success.

21 I would not think that a multiple-purpose project or a large  
22 reservoir as such would be involved. At least it was not my  
23 intention as we went through this particular language. On the  
24 other hand, it is my honest feeling that water resource development  
25 is more important to the people of the United States than any other

1 use of a national resource -- wilderness, non-wilderness, or  
2 anything. If the time should come where that would be primary  
3 use, then I could see where it would be necessary. But it is  
4 also my feeling that water values will be very well taken care of  
5 and all of the water will be put to use before it would be  
6 necessary to make a water resource project of any size in a  
7 wilderness area.

8 Mr. Westland. Let me use my time here to discuss this a  
9 little bit. I appreciate what the gentleman from Colorado has  
10 said, but in the district I represent, which is the one I am  
11 most familiar with, of course, there is a dam, for example,  
12 called Ross Dam, which is way back up in the hills, and that is a  
13 very sizable dam, Seattle City Light has built this. It abuts  
14 practically a wilderness area and a primitive area which, if the  
15 gentleman from Colorado has not already requested the Secretary  
16 not to designate any more wilderness areas during the discussion  
17 of this legislation, would have been declared a wilderness area by  
18 now. And this is for the purpose of developing power and for  
19 the conservation of water.

20 In the Pacific Northwest we have considerable quantities of  
21 still unused water resources, but those streams come down off the  
22 Cascades Mountains, they come very quickly, and they flood, they  
23 are steep, and we use tremendous quantities of that water in our  
24 pulp and paper industry. My hometown of fifty thousand people  
25 uses a hundred and fifty million gallons of water a day. That is

1 enough for San Francisco, but the industries use 80 per cent of  
2 that. I am certainly in favor of the water conservation works.  
3 But the gentleman from Colorado is also well aware, I am sure,  
4 of this resource of ours which we use to develop power to try  
5 to attract some industry to that area, and we also know the  
6 opposition of the wilderness people to the construction of any  
7 dam in a wilderness area.

8 I do not want to exclude the development of the natural  
9 resources of the Pacific Northwest by this legislation.

10 Mrs. Pfost. The time of the gentleman has expired.

11 Dr. Durno. Madam Chairman?

12 Mrs. Pfost. The gentleman from Oregon.

13 Dr. Durno. I move to strike the requisite number of words.

14 Mrs. Pfost. The gentleman from Oregon is recognized for  
15 five minutes.

16 Dr. Durno. The Central Cascades of Oregon of which I speak  
17 is not now in wilderness, but a part of a national forest, and  
18 there are a whole succession of lakes up in that area at various  
19 elevations. Those lakes are tied one to another by water con-  
20 servation works.

21 There is some machinery, there are canals, there are tunnels,  
22 there are all kinds of things up in the Central Cascades which  
23 will to a certain degree desecrate the surface in the preserva-  
24 tion of water and in the conservation of water and its proper  
25 usage in the streams below. I certainly would like to see the

1 water conservation works remain in this because I think it is most  
2 essential to certainly the central area of Oregon.

3 Mr. Aspinall. If the gentleman will yield to me.

4 Dr. Durno. Yes.

5 Mr. Aspinall. The bill introduced by the gentleman from  
6 Pennsylvania, Mr. Saylor, H.R. 776, presumably was the Wilderness  
7 bill as supported by the conservationist group. On page 14 we  
8 have this language to which we are making reference at the  
9 present time, ". . . and the establishment and maintenance of  
10 reservoirs, water-conservation works, and other facilities needed  
11 in the public interest, including the road construction and  
12 maintenance essential to development and use thereof, upon his  
13 determination that such use or uses in the specific area will  
14 better serve the interests of the United States and the people  
15 thereof than will its denial."

16 I would take it that -- the gentleman from Pennsylvania can  
17 speak for himself -- but I would take it that the gentleman from  
18 Pennsylvania was not trying to foreclose the use of this natural  
19 resource when it was determined to have primary interest.

20 Mr. Johnson. Will the gentleman yield?

21 Dr. Durno. Happy to yield.

22 Mr. Johnson. We have had a very good example of this in  
23 desolation Valley Primitive Area. The Sacramento Municipal Utility  
24 District has quite a project going similar to what you have referred  
25 to in the upper reaches within the primitive area boundaries as  
now known. It was necessary to raise the level or put in a

1 small dam, and in order to get in there, we had to get approval  
2 of the Chief of the Forest Service and the Secretary of Agricul-  
3 ture, a waiver, to go in there and make this improvement, and  
4 then come out and take the road out and take everything out.  
5 But they did agree to let them go in. The wilderness people  
6 fought us very bitterly on that.

7 I think there should be some way we could write something  
8 into this legislation where they could go in and conserve this  
9 water in the upper reaches and put in the small dams -- small  
10 dams, but they are important for the late runoff -- and bring  
11 that water down.

12 The contract was let the other day. We finally got it  
13 cleared and they are going in. I do not think it will hurt that  
14 area one bit, probably improve it.

15 We did have to agree to take the road out and take every-  
16 thing out, and erase everything we scarred up, going in there to  
17 complete the construction project.

18 There are other areas that are going to be developed the  
19 same way, I assume. I think under the legislation here, es-  
20 pecially as it relates to the primitive areas and park areas and  
21 national monuments, and game refuges, and game range areas, cer-  
22 tainly there will be water development sometime, and national  
23 forest areas.

24 Mr. Aspinall. Will the gentleman yield to me?

25 Dr. Durno. Yes.

1           Mr. Aspinall. I think it resolves itself into this: That  
2 neither side can have its cake and eat it at the same time. If  
3 we are going to have any legislation, then we have got to give  
4 and take a little bit. This bill does not provide for the  
5 establishment of wilderness areas in either of the categories just  
6 named by the gentleman from California, Mr. Johnson; that is a  
7 matter of future determination. This bill sets it up that in  
8 the study of those future wilderness areas to be considered by  
9 Congress, these matters are to be taken into consideration.

10           And I think the procedure will be just the same then as it  
11 is at the present time, the different users will have to show  
12 their position and then the Secretary and Congress must evaluate.  
13 It is left to Congress, it is not left to the Secretary from now  
14 on.

15           Mr. Johnson. If the gentleman will yield.

16           Mrs. Pfof. The time of the gentleman from Oregon has  
17 just now expired, and the Chair recognizes the gentleman from  
18 California if he requests permission to strike out the requisite  
19 number of words.

20           Mr. Johnson. In talking to these people I find they figure  
21 the primitive areas are more wilderness areas than the wilderness  
22 areas themselves, and the wild areas. If you talk to conserva-  
23 tionist groups, they will tell you the primitive areas were set  
24 aside ahead of the wilderness areas in the bill. If this bill  
25 goes beyond the committee, they are going to insist the

1 primitive areas are more wilderness areas because they were set  
2 aside and designated ahead of wilderness areas. When you talk  
3 to those groups they just do not want to give an inch. I think  
4 if this bill goes there should be specific mention of water  
5 development within these primitive areas while they are under  
6 this ten-year study.

7 Mr. Aspinall. If the gentleman will yield, does not the  
8 substitute provide for it?

9 Mr. Johnson. Yes, and no.

10 Mrs. Pfof. Is there further discussion?

11 Mr. Westland. Madam Chairman?

12 Mrs..Pfof. The gentleman from Washington.

13 Mr. Westland. I have an amendment.

14 Mrs. Pfof. The gentleman will state it.

15 Mr. Westland. After the words "water conservation works",  
16 strike the comma and insert the words "including power develop-  
17 ment."

18 It seems to me that it has been pretty well debated here and  
19 we find this is permissive legislation, it states the Secretary  
20 of Agriculture may, and this matter would have to come before the  
21 Congress. It is not one of these "shall" words in here, but the  
22 Secretary may, Congress may. So just in order that if power  
23 development is needed in a specific area that that subject can  
24 come before the Congress and be debated properly pro and con as  
25 to whether or not it is in the best interests of the United

1 States, as the language says, or whether it is not.

2 But if I understand the gentleman from Colorado correctly  
3 in previous conversations on this, the phrase "water conservation  
4 works" would not include power development.

5 Mr. Aspinall. If the gentleman will yield to me, I did not  
6 say that. I said I could not understand where there would be very  
7 much of this involved, but that I thought that water conservation  
8 works included these facilities as far as that is concerned.

9 Mr. Westland. If we can make it a part of the record here  
10 that the gentleman's legislation --

11 Mr. Aspinall. May I say to my friend, I have no objection,  
12 because you have got transmission lines in this printing right  
13 in there, and as far as I am concerned, I would have no objection  
14 to the gentleman's amendment.

15 Mrs. Pfof. Is there further discussion of the amendment?  
16 If not, all in favor of the amendment signify by saying  
17 "Aye".

18 All opposed, say "No."

19 In the opinion of the Chair the "Ayes" have it, the "Ayes"  
20 do have it, and the amendment is carried.

21 Mr. Aspinall. Madam Chairman, I have two clarifying amend-  
22 ments, on page 10, line 14.

23 Mrs. Pfof. The gentleman is recognized.

24 Mr. Aspinall. Insert a comma after the words "public lands",  
25 and add "national forests." And also on page 10, line 18, after

1 the words "public lands" insert "and national forests."

2 Mrs. Pfost. The gentleman is recognized for five minutes  
3 in support of his amendment..

4 Mr..Aspinall. Madam Chairman, I believe that national  
5 forests are included within the designation of public lands, but  
6 in case they are not and it might be held otherwise, we are talk-  
7 ing here about all of that category, and I think this simply  
8 clarifies the language.

9 Mrs. Pfost. Is there further discussion of the gentleman's  
10 amendment?

11 If not, all in favor of the amendment signify by saying  
12 "Aye".

13 All opposed, say "No."

14 The amendment is carried.

15 Are there further amendments?

16 Mr. Westland. Madam Chairman?

17 Mrs. Pfost. The gentleman from Washington.

18 Mr. Westland. Section 104, page 7, line 21, of the Com-  
19 mittee Print -- for the purpose of debate, I have an amendment,  
20 strike the word "with" and insert the word "by." I do not  
21 understand the phraseology as it is presently in the legisla-  
22 tion, "The filing of an application with the department having  
23 administrative jurisdiction . . ." It seems to me that anyone  
24 might file an application, anybody, and that that would immediately  
25 segregate the land from settlement, location, sale and selection,

1 and so forth. I presume the gentleman meant the department  
2 filing the application.

3 I think the word "with" should be stricken and the word  
4 "by" put in there. In other words, the filing of an application  
5 by the department having administrative jurisdiction over the  
6 land proposed for withdrawal.

7 I do not know, maybe that would exclude the military. I  
8 would like to throw this up for grabs here.

9 Mr. Aspinall. Will the gentleman yield to me?

10 Mr. Westland. Surely.

11 Mr. Aspinall. I think this proposed language, whether it  
12 is too inclusive or not, permits filing by any agency of govern-  
13 ment or any of those who have a right to file for this particular  
14 purpose rather than have the department which has administrative  
15 jurisdiction be responsible, and the one responsible for the  
16 filing of the application. The Federal Power Commission has a  
17 right to file for power withdrawals, the military has the right  
18 to file, the Bureau of Reclamation has the right to file. More  
19 than likely Mr. Pearl could be helpful.

20 Mr. Westland. Does not an individual have the right to file  
21 for a power site on a river?

22 Mr. Aspinall. I would say so.

23 Mr. Westland. I think he does. Would that not mean then  
24 immediate segregation of that land from settlement, location and  
25 sale?

1           Mr. Pearl. The application for withdrawal, et cetera, Mr.  
2 Westland, is filed by a department or an agency of the Federal  
3 Government, even though it might be on behalf of a Federally-  
4 supported project, whether it is going to be operated by a  
5 private company or by a State or municipality. The application  
6 is filed with, generally speaking, the Department of the Interior,  
7 which is the department having administrative jurisdiction over  
8 the land, and if you were to make it to have the filing of the  
9 application by the department having administrative jurisdiction,  
10 it would mean only, in virtually 99 per cent of the cases, only  
11 agencies of the Department of the Interior could file applica-  
12 tions and have any effect. The present procedure is that on  
13 the filing of an application -- and we have talked about the  
14 Death Valley National Monument here in these meetings, and have  
15 had some testimony on it -- and I would like to give an example  
16 of what happened there.

17           The application for withdrawal from mineral entry of 36,000  
18 acres of land in Death Valley Monument was filed by the National  
19 Park Service on the 15th of November, 1957, and immediately that  
20 land was segregated so that no further mineral entry could be made  
21 in those areas designated by the National Park Service. There  
22 has been no final action taken on that application, and the lands  
23 are still segregated.

24           The purpose of this section, which the chairman had in his  
25 previous bill, is on page 8, starting on line 3, there is a

1 limitation on the segregative effect, that unless withdrawal  
2 reservation has been completed"within two years or such earlier  
3 date as the department having administrative jurisdiction  
4 over the land involved may designate", then it shall cease. So  
5 that --

6 Mr. Westland. Unless they file again.

7 Mr. Pearl. And then it gives them an opportunity to file  
8 again, but they must give notice to the Congress as to why they  
9 are doing it. At the present time, as I indicated with this  
10 Death Valley application, the chairman has written to the Sec-  
11 retary and is pressing for a decision on the Death Valley  
12 Monument case. But except for that having come to the com-  
13 mittee's attention, this could go on indefinitely.

14 Mr. Westland. I think that language is fine, if I still  
15 have the time here --

16 Mrs. Pfof. The time of the gentleman has expired.

17 Mr. Langen. I move to strike the requisite number of words

18 Mrs. Pfof. The gentleman from North Dakota is recognized  
19 for five minutes.

20 Mr. Langen. I yield to Mr. Westland.

21 Mr. Westland. I believe I had a fellow in my district  
22 file an application to build a dam, and the FPC, I think, con-  
23 sidered this. I am just wondering if the filing of that kind of  
24 an application, Milton, would have this effect of withdrawing  
25 and segregating all of these lands? It seems to me we ought to

1 be a little restrictive. I have no objection to the Park  
2 Service, Army or Navy, or Air Force, or perhaps, as the gentleman  
3 from Colorado suggested, maybe the filing might be by an agency of  
4 government.

5 Mr. Pearl. It is my understanding of the procedure that  
6 the individual would file his application with the Federal Power  
7 Commission and then they would take the action from there, that  
8 he would not file his application with the department having  
9 jurisdiction over the land.

10 However, if you wanted to make certain of this, instead of  
11 saying filing an application by the Department having jurisdic-  
12 tion, say, "the filing of an application by a department or  
13 agency of the Government with the department having administrative  
14 jurisdiction" would certainly clarify it.

15 Mr. Westland. I would accept that.

16 Mrs. Pfof. Is there further discussion?

17 Will Mr. Pearl read the amendment as it is?

18 Mr. Pearl. Committee Print No. 21, page 7, line 21, after the  
19 word "application", add "by a department or agency of the Federal  
20 Government."

21 Mrs. Pfof. Does the gentleman from Washington wish to offer  
22 the amendment?

23 Mr. Westland. I offer the amendment.

24 Mrs. Pfof. Is there further discussion?

25 If not, all in favor of the amendment signify by saying "Aye."

1 All opposed, say "No."

2 The "Ayes" have it and the amendment is adopted.

3 Are there further amendments?

4 I have an amendment on page 22, line 3, of Committee Print  
5 Number 21, following the word "operation" insert "including where  
6 essential the use of mechanized ground or air equipment."

7 And in support of the amendment, I would say that I think  
8 the argument that the chairman of the full committee actually  
9 explained it when he said it was necessary to bring someone out  
10 from an area that was remote, that this would permit this to be  
11 done, or it would allow some of the ingress or egress work to be  
12 done, including the mechanized or air equipment.

13 For the benefit of those who have been handed the mimeographed  
14 sheet, it says page 14, line 17, and that is the old substitute.  
15 But it is on page 22, line 3.

16 Is there further discussion of the amendment?

17 If not, all in favor of the amendment signify by saying  
18 "Aye."

19 All opposed, say "No."

20 The "Ayes" have it, and the amendment is approved.

21 On page 23 of the Committee Print, on line 1, delete "prior  
22 to", and insert "on or before."

23 In explanation I think the amendment is self-explanatory. It  
24 is merely a clarifying amendment.

25 Is there objection to the amendment? If not, it is adopted.

1 Are there further amendments?

2 Mr. Johnson. Madam Chairman?

3 Mrs. Pfof. The gentleman from California.

4 Mr. Johnson. I have a few amendments here to the "Special  
5 Provisions" section, carrying out the wishes of an industry that  
6 is now operating in some of this territory that comes under the  
7 language of this bill.

8 It involves a game range and game refuge and merely spells  
9 out the rights of the mineral leasing end of it for oil opera-  
10 tions.

11 On page 21, line 20, after the word "mining" insert the  
12 words "and mineral leasing."

13 Mr. Rivers. Will the gentleman yield?

14 Mr. Johnson. Yes.

15 Mr. Rivers. It is my impression we acted on that yesterday.

16 Mr. Johnson. No, this is different.

17 Madam Chairman, I did not know the language here that the  
18 chairman had inserted ahead of that. Therefore, I will withdraw  
19 that particular amendment.

20 Mrs. Pfof. Without objection, the gentleman's amendment is  
21 withdrawn.

22 Mr. Johnson. Now I have another amendment. It is found  
23 on page 21, line 25, after the word "development" insert the  
24 words "and exploration, drilling and production."

25 Mrs. Pfof. The gentleman is recognized for five minutes in

1 support of his amendment.

2 Mr. Johnson. This merely allows them to continue to  
3 operate, do their exploratory work and drilling and actual pro-  
4 duction; some of these are actually producing. It spells it  
5 out.

6 Mr. Rivers. Will the gentleman yield?

7 Mr. Johnson. Yes.

8 Mr. Rivers. I think it would be better if the word  
9 "exploration" came ahead of the word "development." "Exploration  
10 and development." Maybe it does not matter.

11 Mr. Johnson. When Mr. Goodwin was before the committee, he  
12 discussed this and spelled out the areas where there are no  
13 operations, where they are now in operation. These amendments  
14 will only spell it out further in the bill here, their right to  
15 operate as at the present time.

16 When the bill was first drafted, this merely pertained to  
17 mining. They were quite concerned that it did not spell out the  
18 mineral leasing. They figure it was necessary in this place to  
19 make it clear they do have the right.

20 Mrs. Pfof. Will the gentleman yield?

21 Mr. Johnson. Yes.

22 Mrs. Pfof. The Chair would like to ask Mr. Pearl whether  
23 he feels that mineral development is sufficiently inclusive to  
24 provide for drilling and production.

25 Mr. Pearl. In my opinion, Madam Chairman, taken together

1 with the amendment appearing in lines 18 to 22, it would take  
2 care of it because it provides that the laws of the United  
3 States pertaining to mineral leasing, which Mr. Johnson is  
4 particularly concerned with, shall continue to be applicable with  
5 the same effect as prior to the effective date of the Act, and  
6 taken in conjunction with the use of the land for mineral  
7 development, it will have the same effect.

8 Mr. Johnson. Would the lady yield?

9 Mrs. Pfost. You have the time.

10 Mr. Johnson. I think this further clarifies it though and  
11 makes it so there can be no mistake about it. They are operating  
12 in these four areas now and one involves a game range and the other  
13 a game refuge. This would allow them to continue and it would  
14 be spelled out in the bill.

15 Mr. Pearl. Of course, the game range and game refuge are  
16 not affected; this section, this particular section, applies  
17 only to those areas that are designated as wilderness by section  
18 203 (a) of this particular Act, and game ranges and game refuges  
19 come in later. However, in the information furnished by the  
20 Secretary of the Interior, it is indicated that there are mineral  
21 leases in effect in two wilderness areas.

22 Mr. Johnson. That is true.

23 Mr. Pearl. One in Bridger Wilderness Area in Wyoming, and the  
24 other in South Absaroka Wilderness Area in Shoshone National  
25 Forest.

1 Mrs. Pfost. Is there further discussion of the gentleman's  
2 amendment?

3 If not, all in favor say "Aye."

4 Opposed, "No."

5 The "Ayes" have it and the amendment is passed.

6 Are there further amendments?

7 Mr. Johnson. Madam Chairman?

8 Mrs. Pfost. The gentleman from California.

9 Mr. Johnson. On page 22, line 3, after the word "and",  
10 insert the word "exploring, drilling, producing and."

11 Mrs. Pfost. On line 3 will it follow the "and" after the  
12 word "operation" in the Committee Print, the first "and" or the  
13 second "and"?

14 Mr. Johnson. On line 3, the first "and".

15 Mrs. Pfost. The first "and"; "mining and" -- will the  
16 gentleman state his amendment again?

17 Mr. Johnson. "exploring, drilling, and producing and."

18 Mrs. Pfost. The gentleman is recognized for five minutes  
19 in support of his amendment.

20 Mr. Johnson. Madam Chairman, counsel would like to rearrange  
21 this.

22 Mr. Pearl. It just seems to me, Madam Chairman, that for  
23 better structure that language might better be put in after the  
24 word "in" in line 3, "exploring, drilling, producing", and then  
25 have only one "and." So that the amendment would just read after

1 the word "in" add "exploring, drilling, producing."

2 Mr. Johnson. I accept the amendment.

3 Mrs. Pfof. Is there further discussion of the amendment?

4 If not, all in favor signify by saying "Aye."

5 All opposed, "No."

6 The amendment is carried.

7 Are there further amendments?

8 Mr. Johnson. Madam Chairman?

9 Mrs. Pfof. The gentleman from California.

10 Mr. Johnson. On page 22, line 6, after the word "work",  
11 insert the words "exploration, drilling, and production."

12 Mr. Aspinall. If the gentleman will yield, in other words  
13 what you are saying is that these people who do this work to  
14 produce and so forth must put the land back in condition as near  
15 its natural state as possible.

16 Mr. Johnson. That is right. That is the only way they  
17 have got in there in some cases, they have agreed to do this.

18 Mrs. Pfof. Is there further discussion of the amendment?

19 If not, all in favor signify by saying "Aye."

20 All opposed, say "No."

21 The amendment is carried.

22 Are there further amendments?

23 Mr. Johnson. Madam Chairman?

24 Mrs. Pfof. For what purpose does the gentleman from  
25 California seek recognition?

1 Mr. Johnson. I have another amendment.

2 Mrs. Pfof. The gentleman will state it.

3 Mr. Johnson. On page 22, line 2, after 1972, I would like  
4 to add the following sentence: in the seventh line of said  
5 subsection (c)(2) on page 15 after the date "December 31, 1972"  
6 insert the following sentence:

7 "Mineral leases issued under the Mineral Leasing Act shall  
8 contain such reasonable stipulations for the protection of the  
9 wilderness character of the land subject to such lease as are  
10 prescribed by the Secretary of Agriculture consistent with the  
11 use of the land for the purposes for which they are leased."

12 Mrs. Pfof. The gentleman is recognized for five minutes  
13 in support of his amendment.

14 Mr. Johnson. That further spells out their obligation under  
15 the jurisdiction of the Secretary of Agriculture.

16 Mrs. Pfof. Is there further discussion of the amendment?

17 If not, all in favor signify by saying "Aye."

18 All opposed, say "No."

19 The amendment is carried.

20 Mr. Johnson. The last amendment was taken care of yesterday  
21 by the chairman so I have no further amendments.

22 Mrs. Pfof. Are there further amendments?

23 Mrs. Hansen. Madam Chairman, I move to strike the last word.

24 Mrs. Pfof. The gentlewoman is recognized.

25 Mrs. Hansen. In order to ask the chairman a question.

1 Over on page 25, subsection (b), and again in subsection  
2 (d), there is a provision for privately-owned land and the  
3 access to them by the words "by reasonable regulations."

4 Then on down in subsection (d), "The Secretary may accept  
5 gifts or bequests of land within or adjacent to wilderness areas  
6 for preservation as wilderness, and such land shall, on acceptance,  
7 become part of the wilderness area."

8 This brings up a problem that is old in the West. The lack  
9 of access to lands being used as a pressure to secure the lands  
10 is the problem. You have a piece of land lying in here; if  
11 you cannot by reasonable regulation secure access into that land  
12 then can that lack of reasonable regulation be used as pressure  
13 to secure the transfer of that land. I mean this is a problem  
14 that is as old as the West itself, where land was surrounded, a  
15 section would be, and the section would be isolated, and we  
16 see the problem even to this day. There are access roads denied  
17 or right of way, where the property owner cannot get in, and  
18 sometimes it can be the State.

19 Can this be used as a pressure to secure this land outside  
20 and place it in the wilderness area? That raises a very severe  
21 problem.

22 Mr. Aspinall. If the gentlelady will yield, I do not believe  
23 this legislation would affect that situation any differently  
24 than what it is at the present time. I do not think we give or  
25 take away from a person any rights. This is supposed to firm up,

1 of course, the boundaries of the wilderness area. It is not  
2 supposed to work a hardship upon an owner. I think the report  
3 should state that, but it is supposed to take care of those  
4 people who wish to sell, and they will sell for prices that  
5 the Secretary will be able to receive appropriations from Congress  
6 on, if people wish to do that. What happens in most of these  
7 cases, as the gentlewoman knows, these people sell to a person  
8 who has the mōney and the person who buys it donates it because  
9 of his desire to firm up an area as an area for whatever purpose  
10 it is supposed to be used.

11 Mrs. Hansen. There is not much purpose, though, in owning  
12 land if you cannot get access to it.

13 Mrs. Pfof. Will the gentlewoman yield?

14 Mrs. Hansen. Yes.

15 Mrs. Pfof. In the primitive area of Idaho there are  
16 several inholdings, and most of them are in so deep within the  
17 primitive area it is almost impossible to get into them except by  
18 trail. There are trails and they use pack trains to bring in  
19 larger pieces of equipment, prior to the time small planes were  
20 perfected where they could fly into the areas.

21 Today most of these inholdings do either have only the  
22 trail or a little landing strip. Now it is my understanding,  
23 and I would like to ask Mr. Pearl if this is his interpretation --  
24 it is my understanding that should any of these areas comparable  
25 to the circumstances I have just mentioned in the primitive area,

1 that this legislation would not change the ingress or egress, it  
2 would not eliminate the little landing strips if they now  
3 exist, it would not eliminate the trail that goes in if one  
4 now exists, or a road -- in very rare instances there may be a  
5 road -- but that it will remain status quo.

6 Is that true, Mr. Pearl?

7 Mr. Pearl. That is correct, Madam Chairman, with this one  
8 proviso, that this language in subsection (b) on page 25, line  
9 21, guarantees ingress and egress and, as I think Mrs. Hansen  
10 and you know, the Attorney General in February of this year  
11 issued a 38 page opinion upon the right of ingress and egress and  
12 the regulations under that, as a result of that opinion, may  
13 reduce the right of access of some people at the present time.

14 And this clause guarantees the right of access or ingress  
15 and egress.

16 Mrs. Pfof. If the gentlewoman will yield further.

17 Mrs. Hansen. Yes.

18 Mrs. Pfof. This means in other words that in reality the  
19 private access to the particular private inholdings then could  
20 not be used as pressure to get them to sell.

21 Mrs. Hansen. That is the thing I wanted spelled out very  
22 plainly here in the record of the committee.

23 Mr. Pearl. That is correct.

24 Mrs. Hansen. It can be used, and has been used, as such in  
25 various times in our history.

1 Dr. Durno. Will the gentlelady yield?

2 Mrs. Hansen. Yes, I am happy to yield.

3 Dr. Durno. For purposes of clarification, does that also  
4 provide, with respect to any Federal timber, timber that might  
5 be cut off, ingress and egress to tracts of Federal timber that  
6 the Department of Agriculture might want to put up for sale that  
7 is hemmed in by wild or wilderness areas?

8 Mr. Pearl. They would have the opportunity of doing that  
9 themselves if they can qualify under the provisions of a different  
10 section. In other words, this is for the benefit of the  
11 privately held lands. If the Secretary of Agriculture finds that  
12 he needs access across a portion of a wilderness area in order to  
13 have timber taken out, he would have to qualify under one of  
14 the provisions on page 23.

15 Mrs. Pfost. The time of the committee has expired. The  
16 subcommittee stands adjourned until the call of the chair.

17 (Whereupon, at 11:45 o'clock a.m., the subcommittee was  
18 adjourned, to reconvene at the call of the Chair.)  
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